

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
ROCK HILL DIVISION

Joshua Terrell Johnson,

Plaintiff,

v.

Richard B. Shirley, Jimmy Ray Sutherland,  
Danny N. Fulmer, Jr.,

Defendants.

C/A No.: 0:22-cv-2772-SAL

**ORDER**

This matter is before the court for review of the September 28, 2022, Report and Recommendation of United States Magistrate Judge Paige J. Gossett, made in accordance with 28 U.S.C. § 636(b)(1)(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). [ECF No. 12.] In the Report and Recommendation, the Magistrate Judge recommends dismissing Plaintiff Joshua Johnson's Complaint without prejudice and issuance of service of process for failing to state a claim upon which relief can be granted. *Id.* at 4. Attached to the Report was a notice advising the parties of the procedures and requirements for filing objections to the Report. *Id.* at 5. Johnson failed to object, and the time for doing so has expired.<sup>1</sup>

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to,

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<sup>1</sup> Johnson filed a supplement to his Complaint, ECF No. 15, and a Motion to Appoint Counsel, ECF No. 17. Even under the liberal construction granted to pro se plaintiffs, these filings do not constitute objections to the magistrate judge's Report.

and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 12, and incorporates the Report by reference herein. Accordingly, the court **DISMISSES** Johnson’s Complaint **without prejudice**. The clerk of court is directed to close this case and terminate any pending motions.

**IT IS SO ORDERED.**

March 14, 2023  
Columbia, South Carolina

/s/Sherri A. Lydon  
Sherri A. Lydon  
United States District Judge